

REMARKS

Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow. Claims 16-22 have been allowed, Claims 5 and 7 have been objected to, and Claims 1-4, 6 and 8-15 have been rejected by the Examiner. Claims 1 and 5-7 have been amended. No new matter has been added. Accordingly, Claims 1-22 will be pending in the present application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Allowable Subject Matter

On page 6 of the Detailed Action, Claims 5 and 7 were objected to as being dependent upon a rejected base claim, although the Examiner indicated that such claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5 and 7 have been rewritten to include all of the limitations of Claim 1, from which they depended. Accordingly, Applicants submit that Claims 5 and 7 are allowable.

Double Patenting

On pages 4-6 of the Office Action, the Examiner rejected Claims 8-15 under the judicially created doctrine of double patenting over various claims of U.S. Patent No. 6,691,901 to Parve et al., alone, or in combination with U.S. Patent No. 3,262,606 to Waterman or U.S. Patent No. 3,604,585 to Towns.

Applicants have provided a terminal disclaimer herewith to overcome the double patenting rejection. Reconsideration and withdrawal of the double patenting rejection of Claims 8-15 is respectfully requested.

Claim Rejections – 35 U.S.C. § 112

On page 2 of the Detailed Action, the Examiner rejected Claim 6 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that “there is insufficient antecedent basis for [‘the flaps’] in the claim.” Claim 6 has been amended to replace “the flaps” with “the at least one flap.” Reconsideration and withdrawal of the rejection of Claim 6 is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

On page 2 of the Detailed Action, the Examiner rejected Claims 1-4 and 6 as being unpatentable over Applicant’s admission to the Prior Art (“APA”) in view of U.S. Patent No. 3,604,585 to Towns (“Towns”) under 35 U.S.C. § 103(a). Applicants respectfully traverse the rejection.

The Examiner stated that “APA discloses the prior art in claim 1, lines 1-7, except that a second projection extending from an inside wall of the base.” The Examiner further stated that “Towns teaches the use of a second projection (19) extending from an inside wall (18) of a base (17) toward a top portion (24) and configured to coact with a first projection (15) on a container (10).” The Examiner concluded that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Towns’ projection onto APA’s inside wall of the base, in order to prevent removal of the base.”

Towns is directed to a “Container and Safety Closure” and discloses a “safety cap 17” having an “inner sidewall 18” which includes “a semicircular annular inwardly projecting bead 19” (col. 2, lines 13 and 17-19). Towns also discloses a “container 10” having a “neck 10” with a “groove 14” (col. 2, lines 4-5). Towns discloses that the inwardly projecting bead 19 “fit[s] tightly onto the groove 14 in sealing relationship therewith.”

Claim 1 (as originally presented) recites a “closure for a container” comprising, in combination with other elements, “a second projection extending from an inside wall of the base

toward the top portion and configured to coact with the first projection on the container” (emphasis added). The Examiner acknowledged that APA does not disclose a second projection extending from an inside wall of the base and relied upon Towns for disclosing this subject matter. While Towns appears to disclose a projection extending from an inside wall (i.e., the projecting bead 19 extending from the inner sidewall 18), Towns does not disclose, teach or suggest that the projecting bead 19 extends toward a top portion of the cap (i.e., the top wall 24). For example, Towns only discloses that the semicircular projecting bead extends “inwardly” from the inner sidewall 18 (col. 2, lines 18-19 and Fig. 3). With reference to the drawings, the inner sidewall 18 appears to be substantially parallel to a longitudinal axis of the cap and the semicircular projecting bead 19 appears to extend perpendicular from the inner sidewall 18 (see figs. 3 and 6). Note that the inner side wall 18 does not appear to be parallel to the outer side wall of the cap 17. As such, Towns does not appear to disclose, teach or suggest a “second projection extending from an inside wall of the base toward the top portion,” as required by Claim 1.

However, Applicants have amended independent Claim 1 herein for clarity so that Claim 1 (as amended) now recites a “closure for a container” comprising, in combination with other elements, “a second projection extending upwardly and inwardly from an inside wall of the base toward the top portion and configured to coact with the first projection on the container” (emphasis added).

The “closure for a container” recited in independent Claim 1 (as amended) would not have been obvious in view of APA, alone or in any proper combination with Towns under 35 U.S.C. § 103(a). As detailed above, Towns does not disclose, teach or suggest a “closure for a container” comprising, in combination with other elements, an arrangement in which a “second projection extend[s] upwardly and inwardly from an inside wall of the base toward the top portion,” as recited in Claim 1 (as amended). To transform the APA and the “Container and Safety Closure” of Towns into a “container for a closure” as recited in Claim 1 (as amended)

would require still further modification, and such modification is taught only by Applicants' own disclosure.

The "container for a closure" recited in independent Claim 1 (as amended) would not have been obvious in view of APA and/or Towns. The rejection of Claim 1 over APA in view of Towns under 35 U.S.C. § 103(a) is improper. Therefore, Claim 1 is patentable over APA in view of Towns.

Dependent Claims 2-4 and 6, which depend from independent Claim 1 are also patentable. See 35 U.S.C. § 112 ¶ 4.

Applicants respectfully request withdrawal of the rejection of Claims 1-4 and 6 under 35 U.S.C. § 103(a).

On page 3 of the Detailed Action, the Examiner further rejected Claims 3 and 6 as being unpatentable over APA in view of Towns, and in further view of U.S. Patent No. 3,262,606 to Waterman ("Waterman") under 35 U.S.C. § 103(a). As detailed above, Claim 1 recites a combination of subject matter that Applicants believe to be patentable. As such, Claims 3 and 6 are also patentable at least by virtue of their dependency from Claim 1. Applicants respectfully request withdrawal of the rejection of Claims 3 and 6 under 35 U.S.C. § 103(a).

* * *

Applicants respectfully submit that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of the Applicants' claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Accordingly, Applicants respectfully request allowance of Claims 1-22.

Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present patent

application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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